

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1001 be amended to read as follows:

1 Page 295, delete lines 25 through 42, begin a new paragraph and
2 insert:

3 "SECTION 291. IC 6-2.5-2-2 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE APRIL 1, 2008 (RETROACTIVE)]: Sec. 2.

5 (a) **Except as provided in subsection (b)**, the state gross retail tax is
6 measured by the gross retail income received by a retail merchant in a
7 retail unitary transaction and is imposed at the following rates:

8	STATE	GROSS RETAIL INCOME	
9	GROSS	FROM THE	
10	RETAIL	RETAIL UNITARY	
11	TAX	TRANSACTION	
12	\$ 0	less than	\$0.09
13	\$ 0.01	at least \$ 0.09 but less than	\$0.25
14	\$ 0.02	at least \$ 0.25 but less than	\$0.42
15	\$ 0.03	at least \$ 0.42 but less than	\$0.59
16	\$ 0.04	at least \$ 0.59 but less than	\$0.75
17	\$ 0.05	at least \$ 0.75 but less than	\$0.92
18	\$ 0.06	at least \$ 0.92 but less than	\$1.09
19	\$ 0	less than	\$0.08
20	\$ 0.01	at least \$ 0.08 but less than	\$0.21
21	\$ 0.02	at least \$ 0.21 but less than	\$0.36
22	\$ 0.03	at least \$ 0.36 but less than	\$0.51
23	\$ 0.04	at least \$ 0.51 but less than	\$0.64
24	\$ 0.05	at least \$ 0.64 but less than	\$0.79
25	\$ 0.06	at least \$ 0.79 but less than	\$0.93
26	\$ 0.07	at least \$ 0.93 but less than	\$1.07

27 On a retail unitary transaction in which the gross retail income received
28 by the retail merchant is one dollar and ~~nine~~ **seven** cents (~~\$1.09~~)
29 (**\$1.07**) or more, the state gross retail tax is ~~six~~ **seven** percent (~~6%~~)
30 (**7%**) of that gross retail income.

31 **(b) This subsection applies only if a proposed amendment to the**

Constitution of the State of Indiana to limit a taxpayer's property tax liability to a specified percentage of the assessed value of the taxpayer's property has not, before December 1, 2010, been submitted under Article 16 of the Constitution of the State of Indiana to the electorate of Indiana for a popular vote. If this subsection applies, then notwithstanding subsection (a) the state gross retail tax is imposed at the following rates after December 31, 2010:

STATE GROSS RETAIL TAX	GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION
\$ 0	less than \$0.09
\$ 0.01	at least \$ 0.09 but less than \$0.25
\$ 0.02	at least \$ 0.25 but less than \$0.42
\$ 0.03	at least \$ 0.42 but less than \$0.59
\$ 0.04	at least \$ 0.59 but less than \$0.75
\$ 0.05	at least \$ 0.75 but less than \$0.92
\$ 0.06	at least \$ 0.92 but less than \$1.09

Notwithstanding subsection (a), if this subsection applies, then on any retail unitary transaction after December 31, 2010, in which the gross retail income received by the retail merchant is one dollar and nine cents (\$1.09) or more, the state gross retail tax is six percent (6%) of that gross retail income.

~~(b)~~ (c) If the tax computed under subsection (a) or (b) results in a fraction of one-half cent (\$0.005) or more, the amount of the tax shall be rounded to the next additional cent.

SECTION 292. IC 6-2.5-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2008 (RETROACTIVE)]: Sec. 7. (a) Except as otherwise provided in IC 6-2.5-7 or in this chapter, a retail merchant shall pay to the department, for a particular reporting period, an amount equal to the product of:

~~(1) six percent (6%); multiplied by~~

~~(2) (1) the retail merchant's total gross retail income from taxable transactions made during the reporting period; multiplied by~~

~~(2) the following percentage:~~

~~(A) Seven percent (7%), if the rates specified in IC 6-2.5-2-2(a) are in effect.~~

~~(B) Six percent (6%), if the rates specified in IC 6-2.5-2-2(b) are in effect.~~

(b) The amount determined under this section is the retail merchant's state gross retail and use tax liability regardless of the amount of tax ~~he~~ the retail merchant actually collects.

SECTION 293. IC 6-2.5-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2008 (RETROACTIVE)]: Sec. 8.

(a) For purposes of determining the amount of state gross retail and use taxes which ~~he~~ a retail merchant must remit under section 7 of this

chapter, ~~the~~ **the** retail merchant may exclude from ~~his~~ **the retail merchant's** gross retail income from retail transactions made during a particular reporting period, an amount equal to the product of:

- (1) the amount of that gross retail income; multiplied by
- (2) the retail merchant's "income exclusion ratio" for the tax year which contains the reporting period.

(b) a retail merchant's "income exclusion ratio" for a particular tax year equals a fraction, the numerator of which is the retail merchant's estimated total gross retail income for the tax year from unitary retail transactions which produce gross retail income of less than:

(1) eight cents (\$0.08) each, if the rates specified in IC 6-2.5-2-2(a) are in effect; and

(1) nine cents (\$0.09) each, if the rates specified in IC 6-2.5-2-2(b) are in effect;

and the denominator of which is the retail merchant's estimated total gross retail income for the tax year from all retail transactions.

(c) In order to minimize a retail merchant's recordkeeping requirements, the department shall prescribe a procedure for determining the retail merchant's income exclusion ratio for a tax year, based on a period of time, not to exceed fifteen (15) consecutive days, during the first quarter of the retail merchant's tax year. However, the period of time may be changed if the change is requested by the retail merchant because of ~~his~~ **the retail merchant's** peculiar accounting procedures or marketing factors. In addition, if a retail merchant has multiple sales locations or diverse types of sales, the department shall permit the retail merchant to determine the ratio on the basis of a representative sampling of the locations and types of sales.

SECTION 294. IC 6-2.5-6-10, AS AMENDED BY P.L.211-2007, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2008 (RETROACTIVE)]: Sec. 10. (a) In order to compensate retail merchants for collecting and timely remitting the state gross retail tax and the state use tax, every retail merchant, except a retail merchant referred to in subsection ~~(c)~~, **(d)**, is entitled to deduct and retain from the amount of those taxes otherwise required to be remitted under IC 6-2.5-7-5 or under this chapter, if timely remitted, a retail merchant's collection allowance.

(b) Except as provided in subsection (c), the allowance equals a percentage of the retail merchant's state gross retail and use tax liability accrued during a calendar year, specified as follows:

(1) ~~Eighty-three~~ Seventy-three hundredths percent ~~(0.83%)~~, **(0.73%)**, if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year did not exceed sixty thousand dollars (\$60,000).

(2) ~~Six-tenths~~ Fifty-three hundredths percent ~~(0.6%)~~, **(0.53%)**, if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the

immediately preceding calendar year:

(A) was greater than sixty thousand dollars (\$60,000); and

(B) did not exceed six hundred thousand dollars (\$600,000).

(3) ~~Three-tenths~~ **Twenty-six hundredths** percent ~~(0.3%)~~, **(0.26%)**, if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year was greater than six hundred thousand dollars (\$600,000).

(c) This subsection applies only if the rates specified in IC 6-2.5-2-2(b) are in effect. Notwithstanding subsection (b), if this subsection applies, then after December 31, 2010, the allowance equals a percentage of the retail merchant's state gross retail and use tax liability accrued during a calendar year, specified as follows:

(1) Eighty-three hundredths percent (0.83%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year did not exceed sixty thousand dollars (\$60,000).

(2) Six-tenths percent (0.6%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year:

(A) was greater than sixty thousand dollars (\$60,000); and

(B) did not exceed six hundred thousand dollars (\$600,000).

(3) Three-tenths percent (0.3%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year was greater than six hundred thousand dollars (\$600,000).

~~(c)~~ **(d)** A retail merchant described in IC 6-2.5-4-5 or IC 6-2.5-4-6 is not entitled to the allowance provided by this section.

SECTION 295. IC 6-2.5-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2008 (RETROACTIVE)]: Sec. 3.

(a) With respect to the sale of gasoline which is dispensed from a metered pump, a retail merchant shall collect, for each unit of gasoline sold, state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of one cent (\$0.001), of:

(1) the price per unit before the addition of state and federal taxes; multiplied by

(2) ~~six percent (6%)~~; **the following percentage:**

(A) Seven percent (7%), if the rates specified in IC 6-2.5-2-2(a) are in effect.

(B) Six percent (6%), if the rates specified in IC 6-2.5-2-2(b) are in effect.

The retail merchant shall collect the state gross retail tax prescribed in this section even if the transaction is exempt from taxation under

1 IC 6-2.5-5.

2 (b) With respect to the sale of special fuel or kerosene which is
3 dispensed from a metered pump, unless the purchaser provides an
4 exemption certificate in accordance with IC 6-2.5-8-8, a retail merchant
5 shall collect, for each unit of special fuel or kerosene sold, state gross
6 retail tax in an amount equal to the product, rounded to the nearest
7 one-tenth of one cent (\$0.001), of:

8 (1) the price per unit before the addition of state and federal taxes;
9 multiplied by

10 (2) ~~six percent (6%)~~; **the following percentage:**

11 **(A) Seven percent (7%), if the rates specified in**
12 **IC 6-2.5-2-2(a) are in effect.**

13 **(B) Six percent (6%), if the rates specified in**
14 **IC 6-2.5-2-2(b) are in effect.**

15 Unless the exemption certificate is provided, the retail merchant shall
16 collect the state gross retail tax prescribed in this section even if the
17 transaction is exempt from taxation under IC 6-2.5-5.

18 SECTION 296. IC 6-2.5-7-5, AS AMENDED BY P.L.182-2007,
19 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 APRIL 1, 2008 (RETROACTIVE)]: Sec. 5. (a) Each retail merchant
21 who dispenses gasoline or special fuel from a metered pump shall, in
22 the manner prescribed in IC 6-2.5-6, report to the department the
23 following information:

24 (1) The total number of gallons of gasoline sold from a metered
25 pump during the period covered by the report.

26 (2) The total amount of money received from the sale of gasoline
27 described in subdivision (1) during the period covered by the
28 report.

29 (3) That portion of the amount described in subdivision (2) which
30 represents state and federal taxes imposed under this article,
31 IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.

32 (4) The total number of gallons of special fuel sold from a
33 metered pump during the period covered by the report.

34 (5) The total amount of money received from the sale of special
35 fuel during the period covered by the report.

36 (6) That portion of the amount described in subdivision (5) that
37 represents state and federal taxes imposed under this article,
38 IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.

39 (7) The total number of gallons of E85 sold from a metered pump
40 during the period covered by the report.

41 (b) Concurrently with filing the report, the retail merchant shall
42 remit the state gross retail tax in an amount which equals:

43 **(1) six and fifty-four hundredths percent (6.54%) of the gross**
44 **receipts, if the rates specified in IC 6-2.5-2-2(a) are in effect;**
45 **and**

46 **(2) five and sixty-six hundredths percent (5.66%) of the gross**
47 **receipts, if the rates specified in IC 6-2.5-2-2(b) are in effect;**

including state gross retail taxes but excluding Indiana and federal gasoline and special fuel taxes, received by the retail merchant from the sale of the gasoline and special fuel that is covered by the report and on which the retail merchant was required to collect state gross retail tax. The retail merchant shall remit that amount regardless of the amount of state gross retail tax which ~~he~~ **the merchant** has actually collected under this chapter. However, the retail merchant is entitled to deduct and retain the amounts prescribed in subsection (c), IC 6-2.5-6-10, and IC 6-2.5-6-11.

(c) A retail merchant is entitled to deduct from the amount of state gross retail tax required to be remitted under subsection (b) the amount determined under STEP THREE of the following formula:

STEP ONE: Determine:

(A) the sum of the prepayment amounts made during the period covered by the retail merchant's report; minus

(B) the sum of prepayment amounts collected by the retail merchant, in the merchant's capacity as a qualified distributor, during the period covered by the retail merchant's report.

STEP TWO: Subject to subsection (d), for reporting periods ending before July 1, 2020, determine the product of:

(A) eighteen cents (\$0.18); multiplied by

(B) the number of gallons of E85 sold at retail by the retail merchant during the period covered by the retail merchant's report.

STEP THREE: Add the amounts determined under STEPS ONE and TWO.

For purposes of this section, a prepayment of the gross retail tax is presumed to occur on the date on which it is invoiced.

(d) The total amount of deductions allowed under subsection (c) STEP TWO may not exceed one million dollars (\$1,000,000) for all retail merchants in all reporting periods. A retail merchant is not required to apply for an allocation of deductions under subsection (c) STEP TWO. If the department determines that the sum of:

(1) the deductions that would otherwise be reported under subsection (c) STEP TWO for a reporting period; plus

(2) the total amount of deductions granted under subsection (c) STEP TWO in all preceding reporting periods;

will exceed one million dollars (\$1,000,000), the department shall publish in the Indiana Register a notice that the deduction program under subsection (c) STEP TWO is terminated after the date specified in the notice and that no additional deductions will be granted for retail transactions occurring after the date specified in the notice."

Delete pages 296 through 299.

Page 300, delete lines 1 through 6.

Page 302, delete lines 2 through 22, begin a new paragraph and insert:

"SECTION 300. IC 6-2.5-10-1, AS AMENDED BY P.L.234-2007,

SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2008]: Sec. 1. (a) The department shall account for all state gross retail and use taxes that it collects.

(b) **Except as provided in subsection (c)**, the department shall deposit those collections **described in subsection (a)** in the following manner:

(1) Fifty percent (50%) of the collections shall be paid into the property tax replacement fund established under IC 6-1.1-21.

(2) ~~(1) Forty-nine~~ **Ninety-nine** and ~~sixty-seven~~ **one hundred seventy-eight** thousandths percent (~~49.067%~~) **(99.178%)** of the collections shall be paid into the state general fund.

~~(3) (2) Seventy-six~~ **Sixty-seven** hundredths of one percent (~~0.76%~~) **(0.67%)** of the collections shall be paid into the public mass transportation fund established by IC 8-23-3-8.

~~(4) (3) Thirty-three~~ **Twenty-nine** thousandths of one percent (~~0.033%~~) **(0.029%)** of the collections shall be deposited into the industrial rail service fund established under IC 8-3-1.7-2.

~~(5) (4) Fourteen-hundredths~~ **One hundred twenty-three thousandths** of one percent (~~0.14%~~) **(0.123%)** of the collections shall be deposited into the commuter rail service fund established under IC 8-3-1.5-20.5.

(c) **This subsection applies only if the rates specified in IC 6-2.5-2-2(b) are in effect. Notwithstanding subsection (b), if this subsection applies, the department shall deposit those collections described in subsection (a) in the following manner:**

(1) Fifty percent (50%) of the collections shall be paid into the property tax replacement fund established under IC 6-1.1-21.

(2) Forty-nine and sixty-seven thousandths percent (49.067%) of the collections shall be paid into the state general fund.

(3) Seventy-six hundredths of one percent (0.76%) of the collections shall be paid into the public mass transportation fund established by IC 8-23-3-8.

(4) Thirty-three thousandths of one percent (0.033%) of the collections shall be deposited into the industrial rail service fund established under IC 8-3-1.7-2.

1 **(5) Fourteen-hundredths of one percent (0.14%) of the**
2 **collections shall be deposited into the commuter rail service**
3 **fund established under IC 8-3-1.5-20.5."**

4 Renumber all SECTIONS consecutively.

(Reference is to EHB 1001 as printed February 20, 2008.)

Senator STEELE